

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 3:14-CR-124
)	
JAMES BRIAN JOYNER)	

MEMORANDUM AND ORDER

This matter is before the court on the defendant's *pro se* motion for a recommendation for the maximum allowable term at a community corrections center or home confinement pursuant to the Second Chance Act/First Step Act [R. 500].

Defendant was sentenced to 70 months imprisonment, followed by 3 years of supervised release for conspiracy to distribute Oxycodone, Morphine, Oxymorphone, and Alprazolam by writing illegal prescriptions. Defendant's projected release date is November 5, 2020.

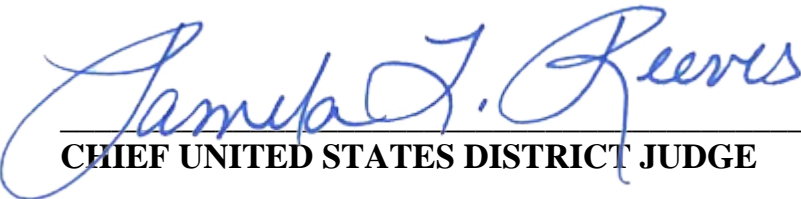
As amended by the First Step Act, the Second Chance Act allows, but does not compel, the Bureau of Prisons to consider placing an inmate on home confinement for no more than six months at the close of his sentence, or in a residential re-entry center for up to twelve months. It confers no authority whatsoever upon district courts. *See Lovett v. Hogsten*, 2009 WL 5851205 at *2 (6th Cir. Dec. 29, 2009) (stressing that the Second Chance Act "does not guarantee" a one-year placement in a community correctional facility). The Bureau of Prisons is authorized to consider such placement, but a prisoner is not

automatically entitled or guaranteed such placement for any minimum period. *Sheppard v. Quintana*, 2019 WL 1103391 at *2 (E.D.Ky. Mar. 8, 2019).

Defendant is advised that any order, recommendation, or request by the court that a defendant serve a term of imprisonment in a community corrections facility has no binding effect on the Bureau of Prisons. 18 U.S.C. § 3621(b) (providing that the Bureau of Prisons shall designate the place of the prisoner's confinement. The court can recommend that the Bureau of Prisons place a defendant in a particular facility or program, but decisionmaking authority rests with the Bureau of Prisons. *Tapia v. United States*, 131 S. Ct. 2382, 2390-91 (2011). Moreover, the Bureau of Prisons' placement decisions are expressly "insulated from judicial review." *Sheppard*, 2019 WL 1103391 a *2.

Notwithstanding the above, the court will make a recommendation for defendant. Accordingly, defendant's motion [R. 500] is **GRANTED** to the extent that the court **RECOMMENDS** that defendant be allowed to spend six months of his sentence at a community corrections center or on home confinement. This is a recommendation only, as the Bureau of Prisons retains discretion under the Second Chance Act to decide whether and when the defendant should be placed in community/home confinement.

IT IS SO ORDERED.



CHIEF UNITED STATES DISTRICT JUDGE